

Steven Sugarman  
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appearing *pro hac vice*  
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Attorney for WildEarth Guardians

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

TUCSON DIVISION

WILDEARTH GUARDIANS,	)	
	)	
Plaintiff,	)	
	)	No. 13-151-RCC
vs.	)	
	)	
UNITED STATES FISH AND WILDLIFE	)	<b>NOTICE OF INTENT TO</b>
SERVICE and UNITED STATES FOREST	)	<b>FILE EXPEDITED RESPONSE</b>
SERVICE,	)	<b>TO DEFENDANTS' MOTION</b>
	)	<b>FOR CLARIFICATION</b>
Defendants.	)	
	)	

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After the close of business on September 16, 2019 – at 6:20 p.m. Mountain Time – counsel for the Federal Defendants e-mailed a draft of the pending Motion for Clarification to the undersigned. In that e-mail, counsel for the Federal Defendants asked for Plaintiff's position on the motion by no later than 10:00 a.m Mountain Time on September 17, 2019.

As requested, Plaintiff provided its position through counsel in an e-mail of 8:45

a.m. Mountain Time on September 17, 2019. In that e-mail, the undersigned requested that the Federal Defendants' motion incorporate the following statement in connection with the Plaintiff's position on the motion for clarification:

Defendants sought Plaintiff's position on this motion after the close of business on September 16, 2019, and requested that the position be provided by no later than 10:00 a.m. on September 17, 2019. Plaintiff has been unable to formulate its final position with respect to the motion in the short period of time allowed by Defendants. While Plaintiff concedes that this action is moot insofar as claims against the [Kaibab, Prescott, Apache-Sitgreaves, Coconino, and Coronado] Biological Opinions are concerned, Plaintiff believes that the Court's broad remedial order which arguably encompasses those five forests is essential to the recovery of the Mexican spotted owl and that the order may have been intentionally crafted by the court to reflect this biological reality. To accommodate the Defendants' desire for expedited consideration of this motion, Plaintiff has represented to Defendants that it will file a written response to Defendants' motion by no later than close of business on September 19, 2019.

Subsequently, in an e-mail of 10:54 a.m. Mountain Time, counsel for the Federal Defendants notified the undersigned that he had decided not to incorporate Plaintiff's position into the motion as requested because such practice is not required by Local Rule or standing order of this Court.

Accordingly, WildEarth Guardians hereby respectfully notifies the Court that it will file a written response to the Federal Defendants' Motion for Clarification by the close of business on September 19, 2019 to accommodate the Federal Defendants' desire for expedited consideration.

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Dated: September 17, 2019.

Respectfully submitted,

/s/ Steven Sugarman  
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### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Notice was served on counsel of record on September 17, 2019 through the Court's electronic CM-ECF system.

/s/ Steven Sugarman  
Steven Sugarman